

**ASSEMBLY BILL**

**No. 2799**

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**Introduced by Assembly Members Calderon**

February 20, 2004

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An act to amend Section 2890 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2799, as introduced, Calderon. Telecommunications: billings.

Existing law requires that when a person or corporation obtains a written order for a telecommunications product or service, the written order be a separate document from any solicitation material. Existing law requires that written orders and written solicitation materials be unambiguous, legible, be in at least 10-point type, and be in the same language. Existing law prohibits written orders being used as entry forms for sweepstakes, contests, or other programs that offer prizes or gifts.

This bill would instead require that when a telephone corporation mails solicitation materials that were not requested, that advertise a product or service that may be ordered through execution and return of an enclosed ordering form that is not conditioned upon the telephone corporation providing further documentation or disclosure of the terms of the agreement, then the essential terms of the agreement are to be set forth clearly, conspicuously, and legibly in the ordering form, in a minimum 10-point type, and in the same language as the solicitation materials. The bill would prohibit a telephone corporation from using as an order form for product or services, an entry form for sweepstakes, contests, or other programs that offer prizes or gifts.

Existing law requires a telephone bill to only contain charges for products or services the purchase of which the subscriber has authorized. Existing law requires that telephone bills include information concerning the nature of the charges, dispute resolution, and complaint procedures that establish certain rebuttable presumptions relative to whether a charge has been authorized.

This bill would provide means to make a prima facie showing of authorization.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2890 of the Public Utilities Code is  
2 amended to read:  
3 2890. (a) A telephone bill may only contain charges for  
4 products or services, the purchase of which the subscriber has  
5 authorized.  
6 (b) ~~When a person or corporation obtains a written order for a~~  
7 ~~product or service, the written order shall be a separate document~~  
8 ~~from any solicitation material. The sole purpose of the document~~  
9 ~~is to explain the nature and extent of the transaction. Written orders~~  
10 ~~and written solicitation materials shall be unambiguous, legible,~~  
11 ~~and in a minimum 10-point type. Written or oral solicitation~~  
12 ~~materials used to obtain an order for a product or service shall be~~  
13 ~~in the same language as the written order. Written orders may not~~  
14 ~~be used as entry forms~~ *telephone corporation mails written*  
15 *solicitation materials to an existing or prospective customer that*  
16 *advertise a product or service that may be ordered through*  
17 *execution and return of an enclosed ordering form not conditioned*  
18 *upon the telephone corporation providing further documentation*  
19 *or disclosure of the terms of the agreement, without having first*  
20 *received a request for information about its products or services,*  
21 *the essential terms of the agreement shall be set forth clearly,*  
22 *conspicuously, and legibly in the ordering form, in a minimum*  
23 *10-point type, and in the same language as the solicitation*  
24 *materials. No telephone corporation may use an order form for*  
25 *product or services that is an entry form for a sweepstakes,*  
26 *contests, or any other program that offers prizes or gifts.*



(c) The commission may only permit a subscriber's local telephone service to be disconnected for nonpayment of charges relating to the subscriber's basic local exchange telephone service, long-distance telephone service within a local access and transport area (intraLATA), long-distance telephone service between local access and transport areas (interLATA), and international telephone service.

(d) ~~(1)~~—A billing telephone company shall clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge on a subscriber's telephone bill. A billing telephone company may not bill for a person, corporation, or billing agent, unless that person, corporation or billing agent complies with ~~paragraph (2)~~ subdivision (e).

~~(2)~~—

(e) Any person, corporation, or billing agent that charges subscribers for products or services on a telephone bill shall do all of the following:

~~(A)~~—

(1) Include, or cause to be included, in the telephone bill the amount being charged for each product or service, including any taxes or surcharges, and a clear and concise description of the service, product, or other offering for which a charge has been imposed.

~~(B)~~—

(2) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name of the party responsible for generating the charge and a toll-free telephone number or other no cost means of contacting the entity responsible for resolving disputes regarding the charge and a description of the manner in which a dispute regarding the charge may be addressed. Each telephone bill shall include the appropriate telephone number of the commission that a subscriber may use to register a complaint.

~~(C)~~—

(3) Establish, maintain, and staff a toll-free telephone number to respond to questions or disputes about its charges and to provide the appropriate addresses to which written questions or complaints may be sent. The person, corporation, or billing agent that generates a charge may also contract with a third party, including,

1 but not limited to, the billing telephone corporation, to provide that  
2 service on behalf of the person, corporation or billing agent.

3 ~~(D)~~

4 (4) Provide a means for expeditiously resolving subscriber  
5 disputes over charges for a product or service, the purchase of  
6 which was not authorized by the subscriber. In the case of a  
7 dispute, there is a rebuttable presumption that an unverified charge  
8 for a product or service was not authorized by the subscriber and  
9 that the subscriber is not responsible for that charge. With regard  
10 to direct dialed telecommunications services, evidence that a call  
11 was dialed is prima facie evidence of authorization. If recurring  
12 charges arise from the use of those subscriber-initiated services,  
13 the recurring charges are subject to this section. *For any charge*  
14 *subject to a rebuttable presumption under this paragraph, the*  
15 *existence of a customer contract with terms requiring or*  
16 *authorizing the telephone corporation to provide the product or*  
17 *service, or the existence of a pattern of usage of the product or*  
18 *service, is prima facie evidence of authorization.*

19 ~~(e)~~

20 (f) If an entity responsible for generating a charge on a  
21 telephone bill receives a complaint from a subscriber that the  
22 subscriber did not authorize the purchase of the product or service  
23 associated with that charge, the entity, not later than 30 days from  
24 the date on which the complaint is received, shall verify the  
25 subscriber's authorization of that charge or undertake to resolve  
26 the billing dispute to the subscriber's satisfaction.

27 ~~(f)~~

28 (g) For purposes of this section, "billing agent" is the  
29 clearinghouse or billing aggregator.

30 ~~(g) This section shall become operative on July 1, 2001.~~